IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 12089 of 2005

Between:

1. Durga Mahender, S/o. Rama Krishna Sailoji Rao,
R/o. Satyavolu, Pedapadu Mandal, Pedapadu.

2. U.Sree Rama Prasad, Pedapadu.

..... PETITIONERS

AND

1 The Revenue Divisional Officer, Eluru.
2 The Mandal Revenue Officer, Pedapadu Mandalam, Pedapadu.
3 The Circle Inspector of Police, Eluru(Rural)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order or orders or direction or writ more particularly one in the nature of writ of Mandamus declaring the action of the respondents in interfering with the peaceful possession and enjoyment of the petitioners land and dispossessing the petitioners from the lawful possession of their lands Ac.13.00 situated at Survey Nos. 138/2, 136/2A&2B, 138/2A&B, 138/2A&B Sathyavolu(Village) Pedapadu Mandal, Eluru, W.G.District as illegal, unauthorized and violative of fundamental rights guaranteed under constitution of consequentially direct the respondents to allow the petitioner to form 2" feet bund across the petitioners land to re-start paddy crop in their respective lands and pass such other or orders as this Hon'ble Court may be deem fit and proper in the interest of justice.

Counsel for the Petitioner:MR.M.L.ALI

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

O R D E R:

The writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaration the action of the respondents in interfering with the peaceful possession and enjoyment of the petitioners' land and dispossessing them from the lawful possession of the lands Ac.13.00 cents situated in survey No.138/2, 136/2A &B 138/2 A&B of Sathyavolu village, Pedapadu Mandal, Eluru as illegal and arbitrary.

It is stated that both the petitioners herein are the absolute owners and possessors of Agricultural land having small extents of land situated in an extent of Ac.13.00 cents in the above said survey numbers. Since fish tank individually in small extents of land is not possible and feasible, the petitioners dug a common fish tank in the total extent of Ac.13.00 in the year 1994 and cultivating the same till 2000. It is also stated that since the above lands are situated in low lying area, frequently due to heavy rains, the crops were devastated consequently the petitioners suffered huge loss. Several times, the lands were submerged due to rains and floods. It is also stated that since 2000, the petitioners could not continue the fish tanks, as there was no sufficient water to Krishna Delta area. Therefore, they were constrained to cover the tanks with mud and rocks. It is also stated that even though in the year 2003, surrounding tanks were re-started, due to strong interference from the revenue authorities, the petitioners could not re-start the same. However, the petitioners proposed to conduct agricultural operations from this year. It is also asserted that it became very difficult for the petitioners to conduct agricultural operations because there is a leakage of seepage water from the neighbour lands as the lands were already converted to fish tanks. In view of the same, the petitioners approached the revenue authorities, but the revenue authorities, without considering their request, at the instance of the neighbouring fish tank owners tried to dispossess the petitioners from peaceful possession and enjoyment of the lands stating that they could not cultivate the lands for paddy crop since the pesticides used for cultivation may effect the neighbouring fish tanks. It is also submitted that on 9-5-2005 at about 10-30 a.m. the revenue staff with the assistance of 3rd respondent-police came to their lands and warned them from doing agricultural activity. The petitioners reported the matter to the Joint Collector but in vain. On 12-5-2005 and 13-5-2005, the 3rd respondent-

Circle Inspector of Police, sent police constables and prevented the agricultural labourers to enter the premises. The grievance of the petitioners is that at the instance of the neighbour land owners, the revenue authorities without assigning any reason or cause and without following due process of law, the respondents preventing them from agricultural operations and not forming 2” bund across the land to conduct paddy crop operations. Hence the present writ petition has been filed.

Heard both the parties.

I have perused the material available on record.

On a perusal of the material available on record, it is not in dispute about the grievances stated by the petitioners that having no sufficient water to the tanks they stopped the fish cultivation and thereupon due to heavy rains and floods the lands were submerged and at one point of time due to leakage of seepage water from the neighbouring lands which were converted into fish tanks they could not start agricultural operations. Admittedly, to over come the above difficulties, the petitioners approached the respondents-revenue authorities to provide 2 feet earth bund to prevent the leakage of water from the neighbouring fish tanks. But the revenue authorities did not consider the request of the petitioners and tried to dispossess them from their peaceful possession and enjoyment of the land. No doubt, the petitioners converted their own lands from time to time as per their will and wish. Like-wise, the neighbouring land owners are also having right to cultivate their lands as they like. But the respondents who are the revenue officials are having responsibility to look after the welfare of the people within their jurisdiction. In view of the same, the respondents are expected to interfere with the agricultural operations of the petitioners and formation of bunds without obtaining permission from the petitioner in the interest of public.

Having regard to the facts and circumstances of the case, I am of the considered view that if the petitioners are so desirous to form a bund, they may carry on the works after obtaining necessary permission from the concerned Mandal Revenue Officer.

Therefore, the grievance of the petitioners sought in this writ petition does not have an adjudicative disposition before this Court under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No costs.

_____

09-06-2005

Mjl/*

To,

1 The Revenue Divisional Officer, Eluru.
2 The Mandal Revenue Officer, Pedapadu Mandalam, Pedapadu.
3 The Circle Inspector of Police, Eluru(Rural)

4. 2 CCs to G.P. for Revenue, High Court buildings, Hyderabad.

5. 2 CD copies.